THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :70 of 2006

DATED: 25-01-2007

K.A.Siddique.

.....
PETITIONER

AND

The Commissioner of Police,
Hyderabad & another.

.....RESPONDENTS

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ORDER:
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Heard the learned counsel for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner who is an architect and resident of House
No.8-2-542/4 on a by-lane of Road No.7, filed this Writ Petition stating that himself and other residents of the said land made a representation, dated 02-05-2005, before the Commissioner of Police, Hyderabad, not to permit any commercial valet parking for the bar which is coming up on the main road No.7, Banjara hills as it will cause inconvenience and hardship to the residents of the said area. Therefore, the petitioner seeks a writ of mandamus directing the respondents to consider and dispose of the said representation.

3. Learned Government Pleader appearing for Home submits that pursuant to the said representation, dated 02-05-2005, made by the residents of the locality of Road No.7, the Additional Commissioner of Police, Hyderabad, conducted an enquiry and passed an order No.Tr.T5/66/2006, dated 28-01-2006, stating that one Sri Prakash Srivasthav, Managing Director, applied for permitting him to run a restaurant styled as “Mocha

Coffees and Conversations" in the premises No.8-2-574/B Road No.7, Banjara Hills, Hyderabad, representing that he has provided sufficient parking place and complied with other conditions for grant of licence to run the said restaurant. Accordingly, he was permitted licence vide No.133/2005, dated 19-12-2005, to run the restaurant upto 11-00 p.m., daily subject to compliance of the following conditions:

1. *In the event of the contravention of any condition, out of attached condition the licensee shall according to Section 76 of the Hyderabad City Police Act be punishable with fine which may be extended to Rs.50/-.*
2. *In the event of disorderly behavior, gambling and intoxicant being allowed in a public entertainment (category-II) the proprietor of place of public entertainment or his agent conducting business there for the time being shall, according to the Section 74 of the Hyderabad City Act he punishable with fine which may extend to Rs.100/-.*
3. *In the event of contravention of any rule made under Section 21(f)(i) Hyderabad City Police Act, the licensee shall be punishable with fine, which may be extended to Rs.50/- under Section 76 of Hyderabad City Police Act and or maybe liable for further action under Section 32 as well as suspension/revocation of license as per Section 84(2) of the Act.*
4. *Two spittoons should be provided at the entrance of the restaurant.*
5. *Playing of gramophone records in the restaurant is not permitted.*
6. *The place earmarked for the parking should be utilized for the parking*

purpose only. The licensee should ensure that the vehicles of the customers are not parked on the road causing obstructions to the free flow of traffic.

7. *The restaurant section should be closed down by 11.00 p.m., sharp.*
8. *No person who has established public place of halting of the second sort, shall be competent to keep the liquor (country and foreign) the toddy, or any opium other intoxicants defined in the excise and opium Acts in force in that place, or to supply there and any person or otherwise allow to use the articles so entered there.*

4. It is stated that the said licence has been given only for running a restaurant (Mocha Coffees and Conversations) at the said premises No.8-2-574/3, Road No.7, Banjara Hills, Hyderabad, and not for a Bar and Restaurant as stated by the petitioner. It is further stated that as per the aforesaid condition of the licence, no permission has been granted to park the vehicles on the main road as well as on the by-lane, which causes inconvenience to the residents. Any such violations by the said "Mocha Coffees and Conversations" will not be tolerated and will be seriously dealt with as per law/licence conditions, which includes suspension/revocation of the licence. The petitioner may approach the police authority for relief in such eventuality.

5. In the report of the Additional Commissioner of Police, Traffic-I Hyderabad City, dated 28-01-2006 it is

not indicated whether Road No.7, Banjara Hills, where Mr.Prakash Shrivasthav, Managing Director of “Mocha Coffees and Conversations”, obtained licence to run a restaurant upto 11-00 p.m., daily subject to the aforesaid conditions; is notified as residential area or commercial area under the Master Plan. If Road No.7, Banjara Hills, is residential area the concerned authorities i.e., the respondents 1 and 2 and the Commissioner of Municipal Corporation of Hyderabad may review the concerned licence issued in favour of Mocha Coffees and Conversations, after giving reasonable opportunity to the Managing Director of the restaurant as well as the petitioner.

6. In view of the aforesaid facts and circumstances of the case, the Writ Petition is disposed of directing the respondents 1 and 2 and the concerned Station House Officer, Banjara hills police station, to see that the said “Mocha Coffees and Conversations” situated in premises No.8-2-574/3, Road No.7, Banjara Hills, Hyderabad, shall not park any vehicles of its customers on the main road causing inconvenience to the free flow of traffic as well as the residents of the locality pending the review of the grant of police licence by the second respondent as well as the Municipal Corporation of Hyderabad permitting to run the said restaurant styled as “Mocha Coffees and Conversations” if it falls under the residential area after giving reasonable opportunity to all the concerned. There shall be no order as to costs.

V.ESWARAIAH, J

25th January, 2007

Note:

Copies to:

1. The Station House Officer,
   Banjara Hills Police Station,
   Hyderabad.
2. The Commissioner,
   Municipal Corporation of Hyderabad,
   Hyderabad.

B/o

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